

**MINUTES OF THE MEETING OF THE  
ROWAN COUNTY BOARD OF COMMISSIONERS**

**October 18, 2010 – 7:00 PM**

**J. NEWTON COHEN, SR. ROOM**

**J. NEWTON COHEN, SR. ROWAN COUNTY ADMINISTRATION BUILDING**  
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Present: Carl Ford, Chairman  
Chad Mitchell, Vice-Chairman  
Jon Barber, Member  
Raymond Coltrain, Member  
Tina Hall, Member

County Manager Gary Page, Clerk to the Board Carolyn Athey, County Attorney Jay Dees and Finance Director Leslie Heidrick were present.

Chairman Ford convened the meeting at 7:00 pm.

Commissioner Mitchell provided the Invocation and also led the Pledge of Allegiance.

**CONSIDER APPROVAL OF THE MINUTES**

Commissioner Barber moved, Commissioner Coltrain seconded and the vote to approve the minutes of the October 4, 2010 Commission Meeting passed unanimously.

**CONSIDER ADDITIONS TO THE AGENDA**

There were no additions to the agenda.

**CONSIDER DELETIONS FROM THE AGENDA**

Commissioner Barber moved to delete agenda item #6 (Consider Bid Award for New Satellite Jail) based on information received from the low bidder and to place the topic on the November 1, 2010 agenda. The motion was seconded by Commissioner Coltrain and passed unanimously.

**CONSIDER APPROVAL OF THE AGENDA**

Commissioner Barber moved, Commissioner Coltrain seconded and the vote to approve the agenda passed unanimously.

## **1. CONSIDER APPROVAL OF CONSENT AGENDA**

Commissioner Mitchell moved approval of the Consent Agenda. The motion was seconded by Commissioner Barber and passed unanimously.

The Consent Agenda consisted of the following:

- A. Set Public Hearing for November 1, 2010 for ZTA 02-10
- B. Set Public Hearing for November 1, 2010 for Z 03-10
- C. Add Slate Drive, Granite Lane, Anson Drive, Buckshot Trail, Birdshot Lane and Wingmaster Drive to the State Secondary Road System for Maintenance

## **2. PUBLIC COMMENT PERIOD**

Chairman Ford opened the Public Comment Period to entertain comments from any citizens wishing to address the Board. The following individuals came forward:

- Jim Sides discussed the Economic Development Commission (EDC) and the fact that its employees were on the County's health insurance plan. Mr. Sides said the EDC was a 501(c)3 agency and he questioned the County's legal obligations to provide insurance to other 501(c)3 agencies. Mr. Sides felt the EDC operations needed more oversight.
- James Rollans discussed the Schedule of Values that would be presented later in the meeting. Mr. Rollans referenced the 2011 Use-Value Manual for Agricultural, Horticultural and Forest Land, which he provided a copy of. Mr. Rollans also provided a current present-use rates comparison of surrounding counties. Mr. Rollans encouraged the Board to postpone the revaluation for at least one (1) year.

With no one else wishing to address the Board, Chairman Ford closed the Public Comment Period.

## **3. PUBLIC HEARING FOR Z 22-03 & CUP 10-04 AMENDMENT #2**

Chairman Ford read the Chairman's Speech (Exhibit A) and declared the public hearing for Z 22-03 and CUP 10-04 Amendment #2 to be in session. Chairman Ford said the hearing would focus on an application submitted by Andy Frick for his property located at 735 Gin Road. The purpose of the application was for consideration of amending a condition of approval for the Blandy Hardwoods operation located on Tax Parcel 370-004.

The Clerk swore in those wishing to provide testimony in the case.

Senior Planner, Shane Stewart, of the Rowan County Planning & Development Department, presented the Staff Report (Exhibit B). Mr. Stewart also presented a power point presentation (Exhibit C), which he used to depict the site and surrounding areas.

Mr. Stewart recalled that approximately five (5) years ago the Board of Commissioners approved a 26-acre rezoning at 735 Gin Road for the Blandy Hardwood's site. Using the power point (Exhibit C), Mr. Stewart displayed a 2002 aerial photo and said the approval did encompass a 15,000 square foot expansion off the rear of the building. There were eleven conditions of approval, one of which was an 80 foot buffer along the southern property line, no encroachment or development within the buffer.

Mr. Stewart said in March of 2009, the applicant asked the Board to reconsider the site plan and amend a couple of conditions of approval. Mr. Stewart pointed out the improvements had been in a central part of the site away from the rear expansion and adjacent building. Similar conditions were applied and the buffer was still the 80 foot requirement. Mr. Stewart said there had been discussion regarding the buffer and what could be placed within the buffer. As Mr. Stewart discussed the buffer area, he used the power point (Exhibit C) to show the existing asphalt and graveled portions in the buffer area, as well as the operational area, stacks of lumber and smaller packs of lumber. Mr. Stewart reported that prior to the approval, the applicant planted a row of evergreen and pine trees and the approval with the condition of the 80 foot buffer did not entail any removal of the travel surface, or trees, and the statement of no encroachment or development within the buffer was accepted by the Board.

Mr. Stewart reported that in July of 2010, Staff received a complaint from an adjoining property owner regarding activity within the buffer. Mr. Stewart said that after discussing the matter with the property owner, Mr. Frick submitted an amendment request to the Board to change the condition of no encroachment or development, except for the screening, and to be able to unload and reload trucks.

Mr. Stewart said Mr. Frick's contention within the discussion of the meeting was that it did not entail all types of lumber products. Mr. Stewart said he did not totally understand the differentiation between a stack of lumber and a lumber pack. Mr. Stewart referred to Attachment C of the Staff Report (Exhibit B), which was the verbatim minutes from the meeting. Mr. Stewart stated there was no discussion in the minutes regarding any type of product that was excluded from the "no encroachment" and therefore, Mr. Frick submitted the amendment request to come back before the Board.

Mr. Stewart used the power point presentation (Exhibit C) to depict the property lines common with the Becks, the evergreen and pine trees, and the 80' buffer. Mr. Stewart pointed out a lumber stack, stating that the size of the stack varies at different times, and that at times there are no stacks in the buffer.

Mr. Stewart said in terms of amending a conditional use permit on a site specific plan, any changes were treated as a new request. Mr. Stewart referred to Attachment B of the Staff Report (Exhibit B) and referenced the findings of fact

from the previous case. Mr. Stewart said when considering the current request, the Board should determine if the findings were still applicable or needed amending.

Mr. Stewart said in terms of comments from Staff, he felt it was important for the applicant to illustrate if this (the buffer area) was the only place suitable for unloading and reloading the temporary-to-permanent storage for the lumber products. Mr. Stewart said the applicant should address if there was any where else on site the unloading and reloading could be accommodated. Mr. Stewart cautioned the Board regarding imposing conditions that would be difficult for staff to enforce, such as enforcement on the duration of lumber in the buffer.

Mr. Stewart said staff was contacted by four (4) adjoining property owners and two (2) could not be present; two (2) had been sworn to provide testimony.

Chairman Ford asked if others that had been sworn to provide testimony would like to address the Board. The following individuals came forward:

- Karen Ingram of 780 Gin Road provided the Board with a handout (Exhibit D) and said she lived at an angle across from the business. Ms. Ingram said in March 2009, Blandy Hardwoods received permission from the Rowan County Board of Commissioners to expand the operation in a manner inconsistent with the zoning ordinance in place. Ms. Ingram said “we” appeared at the hearing and voiced “our” opposition which was based on concerns of increased traffic, noise, dust and the negative impact on the quality of life in “our” property values. Ms. Ingram said despite the concerns, the Commission granted the variance, and the concerns had proven true. Ms. Ingram said most recently the business had violated the limited protection that a buffer would offer. Ms. Ingram said the business encompassed over 20 acres of land and she questioned why it was allowed to operate within the 80’ buffer on the most densely populated side of the property. Ms. Ingram asked the Board to deny any further variance in the conditional zoning of Blandy Hardwoods.

Ms. Ingram said Mr. Frick wants “us” to believe he did not understand the restrictions related to the 80’ buffer and he was asking for yet another exemption to the existing zoning ordinance. Ms. Ingram said she had personally delivered complaints to the Planning Department and had talked with Shane Stewart. Ms. Ingram said she had specifically asked Mr. Stewart if Mr. Frick understood the guidelines of the buffer. Ms. Ingram said Mr. Stewart had assured her that Mr. Frick did indeed know what was and was not allowed in the 80’ buffer. Ms. Ingram asked, “What successful business man would sign a contract without knowing exactly what was in the contract and his contractual obligations?” Ms. Ingram said the documents before the Board showed that not only did Mr. Frick sign the agreement, but in his sworn testimony before the Board, he also

stated that he would move the operations to the center of the property and would not be working in the buffer area. Ms. Ingram said Mr. Frick never stopped using the buffer and she referred to the photographs in her handout (Exhibit D) and stated that some of the photographs were taken early in the morning before she left for work. Ms. Ingram pointed out there were both consecutive and different days of the week that Mr. Frick put different things in the buffer, including stacks of lumber with the forklift operating within the buffer. Ms. Ingram said she could hear the operation of trucks and forklifts from the master bedroom on the backside of her house before dawn. Ms. Ingram said, Sue Horton who was in attendance, lived directly across the street from Blandy Hardwoods and was awakened each weekday by the sound of trucks and forklifts. Ms. Ingram said Jeff Beck's son, Larry, works night shift and must try to rest with this operation in close proximity to his home.

Ms. Ingram said per previous formal complaints to the Planning Department, business operations had continued in the designated buffer area. Ms. Ingram said she daily listened to the sounds of forklifts, including the annoying backing beeper, and was affected by the dust stirred up by traffic in the buffer.

Ms. Ingram questioned the reason for allowing Mr. Frick to break the law. Ms. Ingram gave an example of citizen with a new car and asked if he would be allowed to speed through a school zone repeatedly, be cited a couple of times and then ask for the law to change to make exemptions for this particular person.

Ms. Ingram said elected officials were expected to govern ethically and she asked if it was ethical for the Board to allow the expansion and construction of Blandy Hardwoods with the noted variance and conditions, and then violate those imposed conditions to the detriment of the adjacent property owners. Ms. Ingram asked the Board to not relax the only condition that protected the adjoining property owners. Ms. Ingram asked the Board to keep the existing conditions and require Mr. Frick to cease business operations in the area immediately. Ms. Ingram said if the applicant was not required to rip up the ground to allow natural growth, "we" request some form of barrier, earth berm, or inner fence be added to ensure that he does not continue to operate his business in the buffer area. Ms. Ingram asked the Board to support enforcement of the current ordinance and she said further violation would invoke an injunction and a charge of a misdemeanor. Ms. Ingram said, "These were the rules in place when the commission allowed the variance". Ms. Ingram concluded by stating, "Our quality of life and property values are indeed being impacted by the operation of Blandy Hardwoods and would further be eroded if yet additional variances are granted."

- David Ingram of 780 Gin Road said he had asked for the buffer from the beginning of the process back in 2005. Mr. Ingram said the Rowan County Zoning Ordinance went into effect in January of 1998 and at that time Blandy Hardwoods existed as a house being used for an office. Mr. Ingram said there was no problem with the office because it was residential, agriculture. Mr. Ingram said midyear of 2000, the nature of the business changed and it became a sawmill using the standard industrial classification 242. Mr. Ingram said at that time Planning and Development staff neglected to refer to the ordinance when permitting the site paving and the construction of the 20,000-plus square foot original lumber warehouse built in midyear of 2000. Mr. Ingram said, "No request for a zoning change was taken and any site plan submitted for building approval should have included a proper buffer. The natural screening that did exist at that time along the south property line was bulldozed right to the property line. Our drainage ditch was put in there and I can understand that for the size of the warehouse, so you do have minimal amount of space for this drainage ditch, which is not being used and that's where the line of trees was put in the spring of 2009, just before the approval went through." Mr. Ingram said according to the ordinance the appropriate screening and buffer between an industrial zone and a single family residence was type B screening and an 80' buffer. Mr. Ingram said screening was one item of the requirement and the buffer was the separation of space. Mr. Ingram said there might be a misunderstanding of terms, "but we did not get the type B screening that was stricken right before the approval, but the buffer requirements in the condition for approval agreed to and signed by Mr. Frick are, 80' of buffer space along the south property line, existing trees to be maintained and no encroachment in the buffer allowed." Mr. Ingram said now that the business expansion was completed, Mr. Frick was no longer willing to comply with the buffer condition and wanted it changed. Mr. Ingram said the change would basically remove the 80' of separation, or buffer, between the industrial zone and the Beck residence. Mr. Ingram said Mr. Beck's home was less than 80 feet from the property line. Mr. Ingram said the area was not total asphalt and when the forklifts were spinning in the gravel a lot of dust was generated. Mr. Ingram said, "We live there, we see it, day by day and it blows over on Mr. Beck's vehicles and out into his house. He lives less than 80'."

Chairman Ford advised Mr. Ingram that no hearsay evidence was allowed.

Mr. Ingram reviewed testimony from the minutes of the meeting held in March of 2009. Mr. Ingram said Mr. Frick stated the activity would move to the other side of the building into the expanded area and away from the buffer area. Mr. Ingram said the current center of development now was between the storage buildings and the dryers. Mr. Ingram said the north side of the original building had more area for storage than the buffer area

where Mr. Frick was currently stacking a lot of the lumber. Mr. Ingram said the Blandy Hardwoods tract was 26.42 acres with plenty of other place to develop and stack lumber.

Mr. Ingram said loading, unloading, parking and driving in a buffer which was supposed to be left to grow naturally was supposed to be separation space. Mr. Ingram said the stacking of lumber and any other materials completely defeated the purpose of the buffer. Mr. Ingram said the buffer requirement had been ignored by Mr. Frick even after the approval went through. Mr. Ingram said no enforcement of the buffer requirement took place until multiple complaints were submitted in July and August of this year. Mr. Ingram said the reason given for lack of enforcement was that staff had not yet issued a certificate of occupancy and compliance was not yet required. Mr. Ingram said when the inspections did begin, railroad ties used with lumber stacks were left in the buffer, even during the inspections, yet inspectors reported back that the site was in compliance. Mr. Ingram said when the inspectors made the report, he filed another complaint since it was obvious that leaving the railroad ties in the buffer area meant there was intent to continue stacking lumber after the inspections were completed. Mr. Ingram felt enforcement of the condition in this case was no less enforceable than on any other industrial property in Rowan County. Mr. Ingram asked if a business owner was unwilling to follow the law, if it meant to simply remove the law. Mr. Ingram felt such action was unethical.

Mr. Ingram continued by highlighting the following comments that were made during the public hearing:

1. Mr. Frick said Mr. Ingram had mentioned the south side of the building where much of the lumber operations were run and Mr. Frick said, "that is not so". Mr. Ingram pointed out that "today we are finding out that this is an area that he wants to continue operating in."
2. Mr. Frick said the dust situation would get better when he moved towards the center of the property and away from property lines. Commissioner Mitchell asked for further indication of what Mr. Frick was planning concerning screening for the 80 foot buffer on the south side and moving the lumber stacks. Mr. Frick said the lumber would be shifted to the other side of the building where the dry kiln operation would be. Commissioner Mitchell asked if Mr. Frick would accept a condition of moving all operations including the lumber stack 80' from the southern property line. Mr. Frick asked what would be in the 80'. Commissioner Mitchell responded, basically no operations. Commissioner Mitchell said in other words, the lumber stacks could not be kept there. Mr. Frick said he would not have a problem with the condition.

3. Commissioner Coltrain asked Mr. Frick if he would allow natural vegetation to grow in the area where the lumber stacks were to be moved from and Mr. Frick said he did not see it as an issue. Mr. Frick said once everything was moved there would be hardly anything over there at that line. Mr. Frick said more or less that won't be hardly happening 80' from Mr. Beck's property line and mine. It would be very limited. Mr. Frick said he did not have a problem taking the lumber stacks down within the 80' from Mr. Beck.

Mr. Ingram concluded by saying, "We're just trying to protect our home value and our quality of life in our home and Mr. Frick has been given every advantage in this case. You've already helped his business expand; now we're asking you to help the people that you are sworn to serve, to help us protect our home in using the ordinance, the guidelines that the County has set up to sustain the existing buffer and screening as required."

- Andy Frick, the applicant, said he would like to "get some things set straight from the other meetings about the road that goes through there." Mr. Frick said the road was continually used to unload and reload. Mr. Frick said there was a lot of misconception about what "they" say. Mr. Frick clarified that stacks of lumber are lumber that is put on sticks, which was shown in the pictures provided by Ms. Ingram (Exhibit D). Mr. Frick said the stacks had been removed. Mr. Frick said packs of lumber come in "green loads of lumber" that have to sit on there "and every day they change." Mr. Frick said there were days when "it'd be some there some days and some days it's not, but that is not, that's what was agreed on when I was up here." Mr. Frick said the stacks of lumber had been removed and that he was not "encroaching stacks of lumber in there. I've continued using that road like that, like it was agreed upon."

Mr. Frick said he always tried to check with Mr. Beck to see if he had any problems or issues with the business. Mr. Frick encouraged the Commissioners to contact Mr. Beck.

Mr. Frick said he wanted to straighten out the issue so he did not have to receive a complaint from the Planning Board regarding something he did not feel was agreed upon.

Commissioner Coltrain said he had some knowledge with the lumber industry and he agreed with Mr. Frick that a stack of lumber was lumber that was stacked with layers between each layer of boards for the drying process and a pallet of lumber is a pallet like it comes shipped on a truck. Commissioner Coltrain informed the Board that he had visited the site a couple of weeks ago and that there were no lumber stacks at that time.



Commissioner Coltrain referred to one of the photographs (Exhibit D) and said, "It's showing that there are a couple of lumber stacks behind your screenage" in the far corner next to where the pine trees were planted. Commissioner Coltrain said when he visited the site, there were no stacks; there were a couple pallets that had come off a truck.

Mr. Frick discussed the photos (Exhibit D) and said Ms. Ingram must be taking the photos from the neighbor's property. Mr. Frick explained that one morning a truck did not come in time to pick up some lumber and the lumber set down with the forklift; however, he said the lumber was probably gone within another hour. Mr. Frick was again looking at the photos (Exhibit D) and said the lumber on sticks was an "unload/reload thing." Mr. Frick said, "I think one of my employees called me and was concerned about somebody taking pictures and I don't think they appreciated it, but that's fine."

Commissioner Coltrain asked Mr. Frick if he was saying that he was not stacking the lumber there but just using it for off-loading the trucks. Mr. Frick was speaking over Commissioner Coltrain saying the lumber was there probably an hour because the truck got there late.

Commissioner Coltrain asked if the adjacent neighbor was present and Mr. Frick said no.

Commissioner Coltrain asked if Mr. Frick had received any complaints from the neighbor and Mr. Frick said, "No, and I went to him."

Chairman Ford interrupted saying no hearsay evidence was allowed.

Mr. Frick responded that it wasn't hearsay and that he had gone to Mr. Beck "about these pictures." Chairman Ford said "but you're not Mr. Beck, it'd be nice to be hearing from Mr. Beck here tonight."

Commissioner Mitchell said "Mr. Frick, your statement indicated that you are not using the 80' buffer for storage of work at least at the moment. Then the purpose of the request for the amendment is so that you can use the 80' foot buffer for storage." Mr. Frick said, "That is just for unloading and not stacks because I agreed with ya'll to start with, that the stacks of lumber had to go. So I'm not after putting stacks of lumber in there. Understand that I don't have a problem with that."

Commissioner Mitchell said "and there is even confusion in my mind over a stack of lumber being unloaded off a truck; to me that would be a stack," "just looking at it."

Mr. Frick said, "Most of the time all the stacks of lumber is going to the dry kilns. We don't have time for them to sit there. I hope they don't sit there."

Commissioner Mitchell questioned the maximum amount of time that something unloaded remains in the buffer. Mr. Frick said it could vary from a half a day to two days, depending on how far behind operations were. Mr. Frick said, "but most of the time, we, this time of year, we have to keep it up. I know one time around July 4<sup>th</sup> that we were behind; well, a lot of mills try to push their product because we are not going to work for a couple weeks. But still that was green lumber; there was no stick lumber in that area because I told them we cannot put it in there. The biggest thing is with that road, because it was, we had discussed it about the continued using that place as a business which was unloading and reloading trucks."

Commissioner Coltrain said, "Mr. Frick how old are your cedar trees or the spruce trees you have planted in there." Mr. Frick said he was unsure but that the trees were 6' to 7' when planted and were now approximately 10' to 12' tall.

Commissioner Coltrain questioned the projected amount of time before the trees would form a complete screen and Mr. Frick said he had heard from 2 to 3 years to 4 or 5 years. Mr. Frick said he was trying to fertilize the trees to make them grow. Mr. Frick referred to one of the photos (Exhibit D) and said it was "hard to even see something, like right now behind the screen, unless, you know, somebody has to come across Mr. Beck."

Commissioner Mitchell said "I would like to hear from Mr. Stewart on the status of the screening."

Commissioner Hall said before Mr. Frick left, she would like to know if the business required him to use the 80' buffer. Mr. Frick said just for unloading and reloading.

Commissioner Hall referred to the extra acreage at the operation and asked if there was another location for loading/unloading. Mr. Frick said, "The 80' buffer that I'm getting at is what was agreed on last time, was what was not supposed to be in that buffer and it states in there with stacks of lumber, okay." Mr. Frick said the trucks had always come in and circled and it was continued to run the business.

Commissioner Hall said "Again, I'm not clear, I know Commissioner Mitchell was asking, you're here tonight again." Mr. Frick said, "If you would come visit me I would show you why." Commissioner Hall said "I see the pictures, but you are asking specifically to use this 80' buffer." Mr. Frick said "to continue doing like what was agreed upon, to unload and reload lumber. Not to store or stack lumber, which I think back on it, should have probably been some better understanding about what the definition between the stacks of lumber, which you know was agreed upon."

Commissioner Mitchell said he still wished to hear from Mr. Stewart on the screening. Commissioner Mitchell said he felt “what we are getting down to is almost a disagreement over semantics over a stack of lumber versus an unloaded pallet of lumber that is waiting to dry.” Commissioner Mitchell said he thought the Board had to determine what its intent was, and “what Mr. Frick is saying is when we said no operations in the area, he’s not storing his produced kilned lumber in that area.”

Mr. Frick interrupted saying, “Or stacked lumber in that area. Since you’re talking about that, one thing I want you to keep in mind cause if it was to be the way that it is, I would have never agreed to it. Because it has to be continued using like it is, but I would have never agreed to that, with that type of terms.” “I said I could understand that there’s a misunderstanding, you know about what people considered could be put in that buffer zone. But I would have never have agreed to that.”

Commissioner Hall asked County Attorney Jay Dees to interpret the difference of opinion between Mr. Frick and the surrounding neighbors as to what the County ordinance stated. Mr. Dees said in looking back through the minutes, it was becoming clear that when Commissioner Coltrain asked about the stacks he knew what he meant. Mr. Dees said there may have been some confusion among other Commissioners as to what stack meant to the extent that it may have included pallet lumber. Mr. Dees said Commissioner Mitchell was correct that the Board needed to determine what the Board’s intent was regarding no stacking of lumber within that buffer. Mr. Dees felt the Board needed to determine its intent within the options that “are available today” “to just either deny the request and declare that your intent was no operations within the 80’ buffer, period.”

Commissioner Hall asked, “Is that not what it says though, specifically that is what the neighbors are claiming that we’re saying - no operations.” Mr. Dees said “It says to maintain the buffer and I think the reference to no operations came when Commissioner Mitchell asked whether there would be operations within the 80’ buffer. So you can, either just deny the request to amend and state that your intent was no operations in the 80’ buffer, which is what the neighbors that are here tonight are requesting. Mr. Frick is requesting that you amend it to the extent that it wasn’t clear as to what kind of lumber or how that space could be used for the temporary storage of lumber offloaded from a truck and to be loaded and put on sticks. Or you have other options that might be available and if Shane could come up and talk to us about it as to whether you can consider increasing the separation standard within the buffer, which is where I believe Commissioners are going with regard to how old are the trees and how soon is it going to be a complete visual separation.” Mr. Dees said most ordinances discuss separation in terms planting so that within 5 years there was going to be 100% visual separation if you use vegetative separation or a 6’ privacy fence if its complete separation. Mr. Dees felt the Board was also discussing not only the

use within the buffer, but the type of buffer it may want to require if looking at a hybrid solution. Mr. Dees said the hybrid solution might be that if there was 100% visual separation, maybe there was some room to do the temporary loading and unloading within the buffer. Mr. Dees said he was ensuring the Board was aware of all its options.

Mr. Frick referred to the last page of photographs (Exhibit D) and pointed out the lumber stacked within the 80' foot buffer. Mr. Frick said the lumber was "just the packs of lumber that was set off a truck. You look in the background, now that is called a stack of lumber, but if you look in the foreground that's where those green packs have been unloaded off a truck which those might be there, you know they could be there 10 minutes, they could be there a half a day, they could be there a day, but they'll be gone." Mr. Frick said, "I told the boys just to keep the things down low" below the screening. Mr. Frick said, "I'm within what's agreed upon. But that right there will show you packs of lumber is there the closest to you and the stacks are in the background."

Commissioner Mitchell questioned Mr. Stewart regarding the status of the screening and to what extent the Board could expect a complete visual screen, if ever. Mr. Stewart estimated the screening was planted in February of 2009 prior to the decision. Mr. Stewart said the trees were called Green Giants, were planted approximately 5' apart and were like a Leland Cypress. Mr. Stewart said he had talked with several nursery workers who recommended the trees as a good species. Mr. Stewart said the height was going to grow quicker than the width. Mr. Stewart mentioned the elevation of the adjoining properties and said Blandy Hardwoods was going to be visible for 10 additional feet up.

Commissioner Hall asked Mr. Stewart to respond to the neighbors' concerns that the County was not following its own ordinance. Mr. Stewart said "I think it is definitely difficult when you have an existing operation that has a non-conforming function. You have asphalt and gravel area already out there before the Board was even able to consider the request in 2005." Mr. Stewart said the Board had to consider whether to require the applicant to remove approximately ½-acre of gravel and asphalt and require him to plant grass. Mr. Stewart discussed the type B buffer listed on pages 2 and 3 of the Staff Report (Exhibit B) and said it would take a long time to provide much of a screen. Mr. Stewart also discussed opaque fencing. Mr. Stewart said the Board was dealing with approximately 60' of the 80' that was already covered with the gravel asphalt.

Mr. Stewart said he felt the Board did a good job with the last public hearing providing the best option without requiring the applicant to put a lot of effort, energy and money into removing an area "just so you can't easily drive through it." Mr. Stewart said, "If it's there, then it's probably going to get used for truck traffic, forklift operations," etc.

Commissioner Hall referred to page 3 of the Staff Report (Exhibit B) and mentioned the concerns that had been expressed by surrounding neighbors. Commissioner Hall asked if the County was “doing what we need to be doing.” Mr. Stewart said, “Without that removal of the impervious coverage I think it is difficult to achieve the other layer of the type B” screening. Mr. Stewart used the power point presentation (Exhibit C) to show the property line and the existing screening. Mr. Stewart said the minutes did not say the area could not be driven through. Mr. Stewart said a full type B buffer could not be applied unless the asphalt was removed. Mr. Stewart said, “When we received the complaints we had to begin assessing fines to Mr. Frick and he chose the option of amending the condition.”

In response to a query from Chairman Ford, Mr. Stewart explained that he was uncertain exactly where the property lines were without a survey.

Commissioner Hall asked if there was any reason the applicant could not use an area behind the building to dry the lumber. Mr. Stewart felt that was an important point for the applicant to illustrate. Mr. Stewart pointed out the entrance to the existing site, which was for the most part paved. Mr. Stewart said there was an apron around the building and also a drive around the shed.

Commissioner Coltrain commented that it was interesting Mr. Beck was not present for the hearing.

Commissioner Hall said “I am just trying to see if there is a compromise somewhere that would help.”

Commissioner Mitchell said he would like to “get my mind around the statement involving my questions on page 10 of the record (Staff Report, Exhibit B). And I think Mr. Frick is basically saying that when I said the lumber stacks could not be kept there, he interpreted that at the very least, much different than some of the neighbors did.” Commissioner Mitchell said when the Board finished asking questions, he was going to move to continue the public hearing. Commissioner Mitchell said it would be nice if the Board could get some information from Mr. Beck that could be used throughout the public hearing. Commissioner Mitchell said there was “certainly a contradiction between the statement basically no operations and no lumber stacks being kept there. As far as the interpretation of whether that is operations or not, that is something I want to think about for a little bit.”

Commissioner Barber said “I can say that I don’t have any questions, so is it your suggestion Mr. Vice-Chairman that we table this for further study, is that what you’re saying.” Commissioner Mitchell responded, “that we continue the public hearing on November 1, 2010.”

Mr. Dees said if the Board was not going to make a decision tonight, the public hearing should be continued and held open in order for the Board to receive additional information. Mr. Dees said if the Board received information from any party, another party had a right to rebut or contradict. Mr. Dees said the public hearing did not have to be re-advertised.

Commissioner Mitchell moved to continue the public hearing on November 1, 2010. Commissioner Barber seconded and the motion passed unanimously.

#### **4. RECEIVE SCHEDULE OF VALUES & SET PUBLIC HEARING FOR NOVEMBER 15, 2010**

Tax Administrator Jerry Rowland and Real and Personal Property Manager Barbara McGuire were present to introduce the proposed schedule of values for Rowan County's 2011 Revaluation.

Mr. Rowland explained that appraising was trying to estimate value and was subjective. Mr. Rowland said the intent for tonight was to introduce the schedule of values and to come back to the Board on November 15, 2010 to seek approval of the schedule from the Board.

Commissioner Barber said there was a lot of information included with the packet and he encouraged citizens to review the schedule of values and call the Commissioners or Tax Administrator's Office with any questions.

Commissioner Barber moved to receive the schedule of values and to set the public hearing for November 15, 2010. Commissioner Coltrain seconded the motion.

Commissioner Mitchell pointed out that the tax office had prepared the document while many tax offices around the state did not prepare their own.

Commissioner Mitchell said several months ago there was fear there would not be enough transactions to perform the revaluation and he asked if Mr. Rowland was confident the situation did not exist at this time. Mr. Rowland said only one-fourth of the information was available compared to the previous revaluation. Mr. Rowland said he would be confident in the values arrived at; however, he still would like to see the County delay the revaluation if at all possible.

Commissioner Mitchell said even if the Board chose to go to a revenue neutral rate in June 2011, if the values decreased by 10% and the rate goes up by 10%, everyone would be paying based on a fair valuation of their property.

Commissioner Mitchell said the County could probably have put off the expense of \$300,000 by delaying the revaluation for at least a year; however, if there was enough data to have a legally defensible revaluation, the Board should go through with it.

Commissioner Mitchell said “Even if the rate were to go back to revenue neutral for the most part, probably with very few circumstances, everyone’s tax bill in and of itself would be the same. But at least they are paying the percentage of taxes that their property is valued at. So that is why I continue to support the revaluation continuing on as it is currently scheduled.” Commissioner Mitchell said the public needed to very carefully review the schedules, the standards and the rules and also be aware of the legal processes that the Tax Assessor’s Office is under. Commissioner Mitchell thanked Mr. Rowland for the work performed by his office.

Commissioner Coltrain said he would wait until the public hearing to ask questions.

Upon being put to a vote the motion on the floor passed unanimously.

#### **5. CONSIDER REQUEST FROM EDC TO SET PUBLIC HEARING FOR NOVEMBER 1, 2010 FOR “PROJECT BC-INF”**

Economic Development Director Robert Van Geons explained that Project BC-INF (Project) was a company that was a world leader in production of products utilized to manage wastewater. The operation would produce a variety of extruded plastic products and represent an initial investment of approximately \$5 million dollars in new equipment and building and site improvements. The company would bring 36 jobs to Rowan County (it was estimated that 4 of those jobs would be transfers). The average yearly wage for the positions was \$26,722 with a substantial benefits package.

Mr. Van Geons said the company was considering leasing an existing building in Summit Corporate Center (SCC). Mr. Van Geons said the lease being discussed was for ten (10) years with two (2) five (5) year options. Mr. Van Geons said 4.5 acres of land would be needed for finished product storage, shipping and receiving operations. Mr. Van Geons said while the building met the company’s requirements, the parcel was not large enough to meet their outside storage needs. Mr. Van Geons said the County owned the adjacent lot, which could provide the additional land needed. Mr. Van Geons said without the land, the Project would have to locate elsewhere.

Mr. Van Geons used a power point presentation to show the existing building and surrounding area. Mr. Van Geons said it appeared the request would qualify or be right at the threshold for the minimum for consideration under the grant program. However, Mr. Van Geons said instead of the grant program, the company was requesting to use the adjacent land for product storage and would follow code to grade the property, develop into such a way to store product externally. The company would have to meet all requirements of zoning and the corporate park covenants. Mr. Van Geons said the land would return to the County at the end of the lease or in the event the company ceased operations.

Mr. Van Geons said the lease request was for 5.3 acres; only 3 acres would be graded as the rest was required for setbacks and visual screening.

Mr. Van Geons said the company would create 36 jobs immediately and approximately \$200,000 of investment would be made to the parcel and investments in buildings and grounds. Mr. Van Geons said the project would generate approximately \$300,000 of County tax revenue over the next ten (10) years assuming the tax rate remained the same.

Mr. Van Geons used the power point presentation to review the visual impacts of the site. Mr. Van Geons also illustrated how the parcel could still be viable for other interested parties.

Mr. Van Geons reviewed the request and added that there would be no new expenditure of County funds.

Commissioner Barber moved to set a public hearing for November 1, 2010 for Project BC-INF. The motion was seconded by Commissioner Coltrain.

Commissioner Barber thanked Mr. Van Geons for continuing to promote SCC. Commissioner Barber said SCC was the best economic development tool, next to the Airport, and he predicted when the economy turned around there would be a lot of interest in SCC. Commissioner Barber also thanked the Economic Development Commission members in attendance.

Upon being put to a vote the motion on the floor passed unanimously.

## **6. CONSIDER BID AWARD FOR NEW SATELLITE JAIL**

This item was deleted from the agenda.

## **7. CONSIDER APPROVAL OF BUDGET AMENDMENTS**

Finance Director Leslie Heidrick presented the following budget amendments for the Board's consideration:

- Social Services – To increase the line items for Crisis Intervention Program assistance payments, both expenditures and revenues, based on the new funding authorization received - \$210,593
- Finance – To appropriate fund balance and expenditure for moving services associated with final phase of move to the new DSS building and surplus equipment to the warehouse - \$20,000

Commissioner Mitchell moved approval of the budget amendments as presented. The motion was seconded by Commissioner Barber and passed unanimously.



## **8. COUNTY MANAGER'S MONTHLY ACTIVITY REPORT TO THE BOARD**

Commissioner Mitchell moved to accept the report as submitted. The motion was seconded by Commissioner Barber and passed unanimously.

## **9. CLOSED SESSION**

Commissioner Mitchell moved at 8:41 pm to enter Closed Session pursuant to North Carolina General Statute § 143-318.11(a)(6) for a Personnel Matter. The motion was seconded by Commissioner Barber and passed unanimously.

The Board returned to Open Session at 9:19 pm. No action was taken as a result of the Closed Session.

At this time, Chairman Ford recognized County Attorney Jay Dees.

Mr. Dees asked the Board to consider a motion to suspend the rules and to add deleted agenda item #6 (Consider Aware for New Satellite Jail) back to the agenda. Mr. Dees explained that the Board needed to take formal action on accepting or rejecting the intent of D.H. Griffin to withdraw its bid. Mr. Dees said the Board should hold a hearing at the next meeting but it would not be a "public hearing."

Commissioner Mitchell moved to suspend the rules for the purpose of accepting a recommendation from the County Attorney. Commissioner Barber seconded and the motion passed unanimously.

Commissioner Mitchell moved to accept the recommendation of the Attorney. Commissioner Barber seconded and the motion passed unanimously.

## **10. ADJOURNMENT**

There being no further business to come before the Board, Commissioner Mitchell moved to adjourn at 9:21 pm. The motion was seconded by Commissioner Barber and passed unanimously.

Respectfully Submitted,

Carolyn Athey, CMC, NCCCC  
Clerk to the Board/Assistant to the County Manager